

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3
4 FRANCISCO VIDAL,

5 Petitioner,

6 v.

7 WARDEN B. WILLIAMS, *et al.*,

8 Respondents.
9

Case No. 2:19-cv-01669-APG-NJK

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

10 Francisco Vidal, a prisoner at Nevada's High Desert State Prison, initiated this action on
11 September 24, 2019, by filing a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. ECF
12 No. 1-1.

13 Vidal did not pay the filing fee or file an application to proceed *in forma pauperis*. I will
14 dismiss this action, without prejudice, for that reason. Vidal may initiate a new action by filing a
15 new habeas petition and paying the \$5 filing fee or applying for *in forma pauperis* status. I will
16 direct the Clerk of the Court to send Vidal the forms he needs to do so.

17 I note that Vidal alleges that he was convicted on June 24, 2015, that he did not appeal
18 from his conviction, that he filed a state habeas action on March 2, 2017, and that the appeal
19 from the denial of that petition was decided in 2017. *See* Petition for Writ of Habeas Corpus
20 (ECF No. 1-1), p. 1. Vidal does not specify when in 2017 the appeal from the denial of his state
21 habeas petition was decided, and he does not attach to his petition any written decision of any
22 state court. *See id.* There is a question regarding the timeliness of Vidal's petition to this court.
23 If Vidal initiates a new habeas action, he must, to the extent possible, provide the information

1 called for in the form habeas petition, especially regarding the date of the state appellate court's
2 decision in his state habeas action. And he must, if possible, attach to his petition copies of any
3 written decisions of the state courts that are available to him.

4 Vidal includes in his petition an "Emergency Motion for Injunction." *See* Emergency
5 Motion for Injunction (ECF No. 2). Vidal states no colorable ground for injunctive relief. The
6 motion is frivolous and will be denied.

7 I THEREFORE ORDER that Petitioner's Emergency Motion for Injunction (**ECF No. 2**)
8 **is DENIED.**

9 I FURTHER ORDER that this action is dismissed without prejudice.

10 I FURTHER ORDER that the petitioner is denied a certificate of appealability.

11 I FURTHER ORDER that the Clerk of the Court is directed to enter judgment accordingly.

12 I FURTHER ORDER the Clerk of the Court to send to Petitioner, along with a copy of this
13 order, two copies of the form for a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254,
14 and two copies of the forms for a prisoner's application to proceed *in forma pauperis*.

15 Dated: September 30, 2019.

16
17 
18 _____
19 ANDREW P. GORDON,
20 UNITED STATES DISTRICT JUDGE
21
22
23